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Secure Data in Motion, Inc. d/b/a Sigaba

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

POSTX CORPORATION,

Plaintiff,

vs.

SECURE DATA IN MOTION, INC. d/b/a
SIGABA, CLEARSWIFT
CORPORATION, and JAMES REID,

Defendant.

AND RELATED COUNTERCLAIMS.

Case Nos. C02-04483 SI and C03-0521

**STIPULATION AND ORDER TO RESET
NOVEMBER 7, 2005 TRIAL DATE DUE
TO THE UNAVAILABILITY OF ROBERT
COOK DUE TO HEALTH PROBLEMS**

Date: n/a
Time: n/a
Dept: Courtroom 10, 19th Floor
Judge: Hon. Susan Illston

1 The following stipulation is respectfully submitted to this Court:

2 Counsel for Secure Data in Motion, Inc. d/b/a Sigaba ("Sigaba") makes the following
3 representations:

- 4 • Robert Cook, the Executive Chairman of Sigaba, defendant and counterclaimant
5 in this action, has recently suffered serious medical problems such that he will not
6 be able to prepare for and participate in the scheduled November 7, 2005 trial of
7 this matter;
- 8 • Mr. Cook is the primary client contact between Sigaba and its counsel and an
9 important trial witness for Sigaba. As detailed in Sigaba's pre-trial conference
10 filing, Sigaba intends to offer Mr. Cook as a witness on liability and damages; and
- 11 • Sigaba's counsel has learned the following concerning Mr. Cook's condition:
 - 12 a) Over the weekend of October 1, Mr. Cook suffered serious health problems
13 which severely impaired his balance, gait, speech, motor skills and
14 stamina, and which also caused him to be in severe pain. He was
15 immediately hospitalized and placed under the care of neurologists at
16 University of California at San Francisco Medical Center.
 - 17 b) Yesterday afternoon, Sigaba's counsel was informed by Mr. Cook's wife
18 that his condition is such that he cannot participate in trial preparation and
19 trial for a November 7 trial. Mr. Cook's treating physician has informed
20 him that he cannot endure the workload and stress of trial preparation and
21 participation in a trial for approximately four months, depending on his
22 progress in recovery.

23 Based upon these representations, IT IS HEREBY STIPULATED by and between the
24 parties hereto, through their respective attorneys of record and subject to approval by the Court,
25 that:

- 26 • the trial presently scheduled for November 7, 2005 shall be reset to an
27 available trial date in February 2006;
- 28 • Sigaba's pending Rule 54(b) motion and its Motion in Limine No. 4 as

well as PostX's pending Motions in Limine Nos. 2-5 (which address the scope of the trial) should be set for hearing on November 4, 2005 or the next available Court date (the briefing thereon will be pursuant to the Local Rules); and

- the remaining motions in limine should be heard at the final pre-trial conference to be held in connection with trial in February 2006.

The parties also jointly request that the current pre-trial filing deadlines of Tuesday, October 11, 2005 be vacated.

IT IS SO STIPULATED.

DATED: October 6, 2005

PILLSBURY WINTHROP SHAW PITTMAN LLP

By: /s/
William F. Abrams, Esq.
Attorneys for Plaintiff and Counterdefendant
PostX Corporation

DATED: October 6, 2005

FARELLA BRAUN & MARTEL LLP

By: /s/
John L. Cooper

Attorneys for Defendant and Counterclaimant,
Secure Data in Motion, Inc. d/b/a Sigaba

ORDER

Based upon the foregoing stipulation, and upon the telephone status conference which the Court conducted with the parties on October 6, 2005, good cause appearing, IT IS ORDERED:

(1) the November 7, 2005 trial date is vacated and trial is set for February 21, 2006 at 8:30 a.m.;

(2) the pre-trial conference presently set for October 18, 2005 is reset to February 7, 2006, at 3:30 p.m.;

(3) Sigaba's Motion in Limine No. 4 as well as PostX's pending Motions in Limine Nos. 2-5 (which address the scope of the trial) are set for hearing on November 4, 2005, and unless further ordered by the Court, Sigaba's Rule 54(b) motion will not be heard on November 4, 2005; and

(4) all briefing responses and other pretrial obligations presently due on October 11, 2005 are vacated.

IT IS HEREBY ORDERED.

DATED: _____

